

Message Text

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ACTION ARA-10

INFO OCT-01 IO-10 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00

ACDA-05 AGR-05 AID-05 CEA-01 CEQ-01 CIAE-00 CIEP-01

OFA-01 DLOS-04 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05

FEAE-00 FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-01 OES-03 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 ARAE-00 /108 W
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O P 211355Z AUG 75

FM AMEMBASSY NASSAU

TO SECSTATE WASHDC IMMEDIATE 7112

INFO USDOC WASHDC PRIORITY

COMDT COGARD WASHDC PRIORITY

COMDR SEVENTH COGARD DIST MIAMI PRIORITY

USMISSION GENEVA PRIORITY

C O N F I D E N T I A L NASSAU 1367

E.O. 11652: GDS

TAGS: EFIS, BF

SUBJ: US/BAHAMAS SPINY LOBSTER TALKS

REF: NASSAU 1366

FROM US DELEGATION

GENEVA PASS AMBASSADOR CLINGAN LOS DEL

DEPT FOR ARA-ASST SEC ROGERS, OES/OFA, L/OES, ARA/CAR

1. FOLLOWING IS TEXT OF STATEMENT REFERRED TO IN REFTEL.

2. BEGIN TEXT: MR. MINISTER: IT WAS MY DELEGATION'S HOPE AND
EXPECTATION, AS YOU KNOW, THAT OUR VISIT TO THE BAHAMAS WOULD
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PRODUCE AN AGREEMENT ON SPINY LOBSTER WHICH WOULD ACCOMMODATE

THE RESPECTIVE RIGHTS AND INTERESTS OF OUR TWO GOVERNMENTS.
WE HAVE NOT MADE MUCH PROGRESS TOWARD THAT GOAL.

A. I HAVE BEEN FRANK AND CANDID WITH YOU THROUGHOUT OUR
DISCUSSIONS. I WILL CONTINUE THIS PRACTICE TODAY, AS I AM
CERTAIN YOU WOULD WANT ME TO.

B. MR. MINISTER, I VERY MUCH REGRET THAT OUR EXPECTATIONS
IN THESE NEGOTIATIONS HAVE NOT BEEN MET. THE CONSEQUENCES WILL
NOT BE BENEFICIAL TO EITHER OF OUR COUNTRIES. MY DELEGATION IS,
FRUSTRATED, AS WELL AS SADDENED BY THE PROSPECTS.

C. THE DECLARATION OF THE BAHAMAS MAKING SPINY LOBSTER A
CREATURE OF THE CONTINENTAL SHELF IS PART OF A TREND OF LONG
STANDING IN THE DEVELOPMENT OF THE LAW OF THE SEA--THE TREND
TOWARD GREATER COASTAL STATE CONTROL OVER RESOURCES IN IMM-
EDIATELY ADJACENT AREAS OF OCEAN SPACE. AS WITH THE EXTENSION
OF COASTAL STATE CONTROL TO A CONTIGUOUS FISHERIES ZONE,
DECLARATIONS OF OTHER SPECIES AS CREATURES OF THE CONTINENTAL
SHELF, AND OTHER CLAIMED BUT LARGELY UNRECOGNIZED EXTENSIONS
OF MARITIME JURISDICTION OF VARYING CONTENT, A LIVING RESOURCE
THAT WAS PREVIOUSLY SUBJECT TO FREEDOM OF FISHING ON THE HIGH
SEAS WILL NO LONGER BE FREELY AVAILABLE.

D. OUR EXPECTATIONS HERE, MR. MINISTER, DERIVED FROM THE
PRACTICE OF STATES WHICH EMERGED FROM THESE OTHER EXTENSIONS OF
COASTAL STATE RIGHTS AS A CUSTOM AMONG THE INDEPENDENT NATIONS
OF THE WORLD. WHEN THE UNITED STATES ENACTED A 12-MILE CONTIGUOUS
FISHERIES ZONE, FOR EXAMPLE, WE DID NOT ENFORCE IT FOR A TIME
AGAINST FOREIGN FISHERMEN WHO WERE ACCUSTOMED TO FISHING IN THAT
AREA AS A FREEDOM OF THE SEAS. WE ENTERED INTO GOOD FAITH
NEGOTIATIONS WITH THE GOVERNMENTS OF THESE FISHERMEN IN ORDER
TO ACCOMMODATE TRADITIONAL OR HISTORIC FISHING RIGHTS, OR OTHER-
WISE TO PHASE-IN OUR FULL CONTROL OVER THE RESOURCES IN ORDER
TO AVOID SEVERE ECONOMIC DISLOCATIONS AND STRESS ON RELATIONS
AMONG SOVEREIGNS.

E. WHEN THE UNITED STATES DECLARED THE AMERICAN LOBSTER
TO BE A CREATURE OF THE CONTINENTAL SHELF, WE SIMILARLY REFRAINED
FROM EXCLUDING FOREIGN FISHERMEN FROM THEIR ACCUSTOMED FISHERY
WHILE PROCEEDING WITH GOOD FAITH NEGOTIATIONS, AND EVEN, OUR
SPECIAL GUIDELINES TO REDUCE INCIDENTAL CATCHES OF CONTINENTAL
SHELF FISHERY RESOURCES WERE HELD IN ABEYANCE FOR A REASONABLE
PERIOD OF TIME. THE SOVIET AND JAPANESE KING AND TANNER CRAB
FISHERIES OFF THE U.S. ARE BEING REDUCED THROUGH NEGOTIATION,
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AS ARE OTHER DIRECTED FISHERIES FOR CONTINENTAL SHELF FISHERIES
RESOURCES.

D. THE UNITED STATES IS NOT THE ONLY NATION TO HAVE FOLLOWED
THIS PRACTICE. CANADA, WHEN MOVING TO A 12-MILE CONTIGUOUS
FISHING ZONE, DID THE SAME. BRAZIL SUSPENDED ENFORCEMENT AND
NEGOTIATED A TREATY WITH THE UNITED STATES CONCERNING THE SHRIMP
FISHERY THAT IS PARTLY WITHIN BRAZIL'S CLAIMED 200-MILE TERRITORIAL
SEA. MEXICO, THE USSR, AND THE UK HAVE FOLLOWED SIMILAR PRACTICES.

G. STATE PRACTICE WITH RESPECT TO ICELAND'S EXTENSIONS OF FISHERIES JURISDICTION HAS PERHAPS RECEIVED THE MOST ATTENTION. LAST YEAR, THE INTERNATIONAL COURT OF JUSTICE RECOGNIZED AND APPROVED OF ICELAND'S PRACTICE IN NEGOTIATING A PHASE OUT OF BRITISH AND GERMAN FISHING WITHIN ICELAND'S 12-MILE CONTIGUOUS FISHING ZONE. THE COURT DID NOT APPROVE OF ICELAND'S LATER UNILATERAL ACTION TO EXCLUDE FOREIGN FISHING FROM AREAS BEYOND 12 MILES, WHERE ICELAND HAD LEGITIMATE PREFERENTIAL RIGHTS. THE COURT DECREED THAT ICELAND HAD AN OBLIGATION UNDER INTERNATIONAL LAW AND ARTICLE 33 OF THE UNITED NATIONS CHARTER TO SETTLE THE DISPUTE BY NEGOTIATION, AND NOT THROUGH UNILATERAL EXCLUSION OF HISTORIC FISHING. THE COURT PLACED HEAVY RELIANCE ON ICELAND'S OBLIGATION TO TAKE DUE ACCOUNT OF THE ECONOMIC DEPENDENCE AND THE LIVELIHOOD OF COMMUNITIES IN THE FOREIGN COUNTRY THAT ARE DEPENDENT ON THE FISHING GROUND IN QUESTION.

H. MR. MINISTER, MY GOVERNMENT HAS BEEN FULLY PREPARED TO NEGOTIATE WITH YOUR GOVERNMENT IN REGARD TO OUR TRADITIONAL FISHING FOR SPINY LOBSTER ON THE BAHAMAS BANKS. WE PRESSED FOR SUCH NEGOTIATIONS AS EARLY AS LAST DECEMBER. WE CAME HERE, UNDER CRISIS CONDITIONS, WITH FULL AUTHORITY TO NEGOTIATE AN AGREEMENT THAT WOULD ACCOMMODATE OUR RESPECTIVE RIGHTS AND INTERESTS, INCLUDING MEASURES FOR THE PROPER CONSERVATION OF THE RESOURCE.

I. WE HAVE MADE CONCRETE PROPOSALS FOR DISCUSSION, NOTWITHSTANDING THE FACT THAT WE HAD LITTLE IDEA WHAT THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS WANTED IN AN AGREEMENT. WE BELIEVE THAT THE PROPOSALS WHICH WE HAVE MADE HERE ARE REASONABLE. THE BEST AVAILABLE SCIENTIFIC EVIDENCE INDICATES THAT THE BAHAMIAN LOBSTER RESOURCE IS PRESENTLY NOT BEING OVERFISHED AND THAT WITH PROPER SCIENTIFIC MANAGEMENT OF THE FISHERY, PROSPECTS FOR AN INCREASE IN THE ANNUAL SUSTAINABLE YIELD ARE GOOD. IT HAS ALSO BEEN SHOWN THAT BAHAMIAN FISHERMEN PRESENTLY HAVE THE CAPACITY TO CATCH ONLY ABOUT HALF OF THE PRESENT ANNUAL

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SAFE YIELD, LEAVING A SURPLUS OF AT LEAST 5 MILLION POUNDS PER YEAR AVAILABLE FOR FURTHER EXPLOITATION. WE UNDERSTAND AND APPRECIATE THE DESIRE OF YOUR GOVERNMENT TO ENABLE BAHAMIAN FISHERMEN TO FULLY EXPLOIT ALL OF THE AVAILABLE SPINY LOBSTER. INDEED, WE SUPPORT YOU IN THIS EFFORT AND ARE PREPARED TO DO WHAT WE CAN TO CONTRIBUTE TOWARD THIS END. THE ESSENCE OF OUR PROPOSALS IS THAT U.S. FISHERMEN, WHO OVER THE YEARS HAVE MADE THEIR LIVING PURSUING THIS RESOURCE, SHOULD BE PERMITTED TO TAKE THIS EXCESS LOBSTER UNTIL BAHAMIAN FISHERMEN CAN DO SO. WE HAVE OFFERED TO PAY A REASONABLE FEE TO BE ABLE TO UTILIZE THE RESOURCE. WE HAVE OFFERED TO COOPERATE TO ENSURE PROPER MANAGEMENT AND CONSERVATION AND ENFORCEMENT OF WHATEVER MEASURES ARE AGREED UPON. THESE PROPOSALS HAVE BEEN REJECTED, AND WE HAVE RECEIVED NO COUNTER PROPOSALS UPON WHICH MEANINGFUL NEGOTIATIONS COULD PROCEED.

(CLOSING PARAGRAPH TO BE DEVELOPED IN LIGHT OF SUBSTANCE
AND TONE OF GCOB PRESENTATION.)
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